

SO. CAL. EQUAL ACCESS GROUP  
Jason J. Kim (SBN 190246)  
Jason Yoon (SBN 306137)  
Kevin Hong (SBN 299040)  
101 S. Western Ave., Second Floor  
Los Angeles, CA 90004  
Telephone: (213) 252-8008  
Facsimile: (213) 252-8009  
cm@SoCalEAG.com

Attorneys for Plaintiff  
JOSHUA CUEVAS

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JOSHUA CUEVAS,  
Plaintiff,  
vs.

RIGO'S TACO #3, INC.; RIGOBERTO  
M. MELENDEZ; and DOES 1 to 10,  
Defendants.

**Case No.:**

COMPLAINT FOR INJUNCTIVE  
RELIEF AND DAMAGES FOR DENIAL  
OF CIVIL RIGHTS OF A DISABLED  
PERSON IN VIOLATIONS OF

1. AMERICANS WITH DISABILITIES  
ACT, 42 U.S.C. §12131 et seq.;

2. CALIFORNIA'S UNRUH CIVIL  
RIGHTS ACT;

3. CALIFORNIA'S DISABLED  
PERSONS ACT;

4. CALIFORNIA HEALTH & SAFETY  
CODE;

5. NEGLIGENCE

Plaintiff JOSHUA CUEVAS ("Plaintiff") complains of Defendants RIGO'S TACO  
#3, INC.; RIGOBERTO M. MELENDEZ; and DOES 1 to 10 ("Defendants") and alleges  
as follows:

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**PARTIES**

1  
2 1. Plaintiff is a California resident with a physical disability. Plaintiff suffers  
3 from multiple sclerosis and is substantially limited in his ability to walk. Plaintiff requires  
4 the use of a wheelchair at all times when traveling in public.

5 2. Defendants are, or were at the time of the incident, the real property owners,  
6 business operators, lessors and/or lessees of the real property for a restaurant  
7 (“Business”) located at or about 671 N. Maclay Ave, San Fernando, California.

8 3. The true names and capacities, whether individual, corporate, associate or  
9 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,  
10 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of  
11 Court to amend this Complaint when the true names and capacities have been  
12 ascertained. Plaintiff is informed and believes, and, based thereon, alleges that each such  
13 fictitiously named Defendants are responsible in some manner, and therefore, liable to  
14 Plaintiff for the acts herein alleged.

15 4. Plaintiff is informed and believes, and thereon alleges that, at all relevant  
16 times, each of the Defendants was the agent, employee, or alter-ego of each of the other  
17 Defendants, and/or was acting in concert with each of the other Defendants, and in doing  
18 the things alleged herein was acting with the knowledge and consent of the other  
19 Defendants and within the course and scope of such agency or employment relationship.

20 5. Whenever and wherever reference is made in this Complaint to any act or  
21 failure to act by a defendant or Defendants, such allegations and references shall also be  
22 deemed to mean the acts and failures to act of each Defendant acting individually, jointly  
23 and severally.

24 **JURISDICTION AND VENUE**

25 6. The Court has jurisdiction of this action pursuant to 28 USC §§ 1331 and  
26 1343 for violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et*  
27 *seq.*).  
28



1 patronize the Business; however, Plaintiff is deterred from visiting the Business because  
2 his knowledge of these violations prevents him from returning until the barriers are  
3 removed.

4 15. Based on the violations, Plaintiff alleges, on information and belief, that  
5 there are additional barriers to accessibility at the Business after further site inspection.  
6 Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-*  
7 *Eleven, Inc.* 524 F.3d 1034 (9<sup>th</sup> Cir. 2008).

8 16. In addition, Plaintiff alleges, on information and belief, that Defendants  
9 knew that particular barriers render the Business inaccessible, violate state and federal  
10 law, and interfere with access for the physically disabled.

11 17. At all relevant times, Defendants had and still have control and dominion  
12 over the conditions at this location and had and still have the financial resources to  
13 remove these barriers without much difficulty or expenses to make the Business  
14 accessible to the physically disabled in compliance with ADDAG and Title 24  
15 regulations. Defendants have not removed such barriers and have not modified the  
16 Business to conform to accessibility regulations.

17 **FIRST CAUSE OF ACTION**

18 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

19 18. Plaintiff incorporates by reference each of the allegations in all prior  
20 paragraphs in this complaint.

21 19. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual  
22 shall be discriminated against on the basis of disability in the full and equal enjoyment of  
23 the goods, services, facilities, privileges, advantages, or accommodations of any place of  
24 public accommodation by any person who owns, leases, or leases to, or operates a place  
25 of public accommodation. *See* 42 U.S.C. § 12182(a).

26 20. Discrimination, *inter alia*, includes:

- 27 a. A failure to make reasonable modification in policies, practices, or  
28 procedures, when such modifications are necessary to afford such

1 goods, services, facilities, privileges, advantages, or accommodations  
2 to individuals with disabilities, unless the entity can demonstrate that  
3 making such modifications would fundamentally alter the nature of  
4 such goods, services, facilities, privileges, advantages, or  
5 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).

6 b. A failure to take such steps as may be necessary to ensure that no  
7 individual with a disability is excluded, denied services, segregated or  
8 otherwise treated differently than other individuals because of the  
9 absence of auxiliary aids and services, unless the entity can  
10 demonstrate that taking such steps would fundamentally alter the  
11 nature of the good, service, facility, privilege, advantage, or  
12 accommodation being offered or would result in an undue burden. 42  
13 U.S.C. § 12182(b)(2)(A)(iii).

14 c. A failure to remove architectural barriers, and communication barriers  
15 that are structural in nature, in existing facilities, and transportation  
16 barriers in existing vehicles and rail passenger cars used by an  
17 establishment for transporting individuals (not including barriers that  
18 can only be removed through the retrofitting of vehicles or rail  
19 passenger cars by the installation of a hydraulic or other lift), where  
20 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).

21 d. A failure to make alterations in such a manner that, to the maximum  
22 extent feasible, the altered portions of the facility are readily  
23 accessible to and usable by individuals with disabilities, including  
24 individuals who use wheelchairs or to ensure that, to the maximum  
25 extent feasible, the path of travel to the altered area and the  
26 bathrooms, telephones, and drinking fountains serving the altered  
27 area, are readily accessible to and usable by individuals with  
28 disabilities where such alterations to the path or travel or the

1                   bathrooms, telephones, and drinking fountains serving the altered area  
2                   are not disproportionate to the overall alterations in terms of cost and  
3                   scope. 42 U.S.C. § 12183(a)(2).

4           21.   Toilet flush controls shall be hand operated or automatic. Hand operated  
5 flush controls shall comply with 309. Flush controls shall be located on the open side of  
6 the water closet. 2010 ADA Standards § 604.6.

7           22.   Here, Defendants failed to install a proper flush control as the one provided  
8 was not installed on the open side.

9           23.   Handles, pulls, latches, locks, and other operating devices on accessible  
10 doors shall have a shape that is easy to grasp with one hand and does not require tight  
11 grasping, tight pinching, or twisting of the wrist to operate. Lever-operated mechanisms,  
12 push-type mechanisms, and U-shaped handles are acceptable designs. When sliding doors  
13 are fully open, operating hardware shall be exposed and usable from both sides.  
14 Hardware required for accessible door passage shall be mounted no higher than 48 in  
15 (1220 mm) above finished floor. 1991 ADA Standards § 4.13.9.

16          24.   Here, Defendants failed to provide accessible handle and locks on the  
17 restroom door. The door consisted of a doorknob that was difficult to grasp and operate  
18 without a proper handle, as the doorknob requires twisting of the wrist to operate.

19          25.   Water supply and drainpipes under lavatories and sinks shall be insulated or  
20 otherwise configured to protect against contact. There shall be no sharp or abrasive  
21 surfaces under lavatories and sinks. 2010 ADA Standards § 606.5.

22          26.   Here, Defendants failed to properly insulate the drainpipes under the sink.

23          27.   The side wall grab bar shall be 42 inches (1065 mm) long minimum, located  
24 12 inches (305 mm) maximum from the rear wall and extending 54 inches (1370 mm)  
25 minimum from the rear wall. 2010 ADA Standards § 604.5.1. The rear wall grab bar  
26 shall be 36 inches (915 mm) long minimum and extend from the centerline of the water  
27 closet 12 inches (305 mm) minimum on one side and 24 inches (610 mm) minimum on  
28 the other side. 2010 ADA Standards § 604.5.2. Grab bars shall be installed in a

1 horizontal position, 33 inches (840 mm) minimum and 36 inches (915 mm) maximum  
2 above the finish floor measured to the top of the gripping surface. 2010 ADA Standards  
3 § 609.4.

4 28. Here, Defendants failed to install the grab bars.

5 29. A public accommodation shall maintain in operable working condition those  
6 features of facilities and equipment that are required to be readily accessible to and usable  
7 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a).

8 30. By failing to maintain the facility to be readily accessible and usable by  
9 Plaintiff, Defendants are in violation of Plaintiff's rights under the ADA and its related  
10 regulations.

11 31. The Business has denied and continues to deny full and equal access to  
12 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be  
13 discriminated against due to the lack of accessible facilities, and therefore, seeks  
14 injunctive relief to alter facilities to make such facilities readily accessible to and usable  
15 by individuals with disabilities.

16 **SECOND CAUSE OF ACTION**

17 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

18 32. Plaintiff incorporates by reference each of the allegations in all prior  
19 paragraphs in this complaint.

20 33. California Civil Code § 51 states, "All persons within the jurisdiction of this  
21 state are free and equal, and no matter what their sex, race, color, religion, ancestry,  
22 national origin, disability, medical condition, genetic information, marital status, sexual  
23 orientation, citizenship, primary language, or immigration status are entitled to the full  
24 and equal accommodations, advantages, facilities, privileges, or services in all business  
25 establishments of every kind whatsoever."

26 34. California Civil Code § 52 states, "Whoever denies, aids or incites a denial,  
27 or make any discrimination or distinction contrary to Section 51, 515, or 51.6, is liable  
28 for each and every offense for the actual damages, and any amount that may be



1 determined by a jury, or a court sitting without a jury, up to a maximum of three times the  
2 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any  
3 attorney's fees that may be determined by the court in addition thereto, suffered by any  
4 person denied the rights provided in Section 51, 51.5, or 51.6.

5 35. California Civil Code § 51(f) specifies, "a violation of the right of any  
6 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)  
7 shall also constitute a violation of this section."

8 36. The actions and omissions of Defendants alleged herein constitute a denial  
9 of full and equal accommodation, advantages, facilities, privileges, or services by  
10 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.  
11 Defendants have discriminated against Plaintiff in violation of California Civil Code §§  
12 51 and 52.

13 37. The violations of the Unruh Civil Rights Act caused Plaintiff to experience  
14 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory  
15 damages as specified in California Civil Code §55.56(a)-(c).

### 16 **THIRD CAUSE OF ACTION**

#### 17 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

18 38. Plaintiff incorporates by reference each of the allegations in all prior  
19 paragraphs in this complaint.

20 39. California Civil Code § 54.1(a) states, "Individuals with disabilities shall be  
21 entitled to full and equal access, as other members of the general public, to  
22 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,  
23 and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles,  
24 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes  
25 of transportation (whether private, public, franchised, licensed, contracted, or otherwise  
26 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,  
27 places of public accommodations, amusement, or resort, and other places in which the  
28



1 general public is invited, subject only to the conditions and limitations established by  
2 law, or state or federal regulation, and applicable alike to all persons.

3 40. California Civil Code § 54.3(a) states, “Any person or persons, firm or  
4 corporation who denies or interferes with admittance to or enjoyment of public facilities  
5 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an  
6 individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for  
7 the actual damages, and any amount as may be determined by a jury, or a court sitting  
8 without a jury, up to a maximum of three times the amount of actual damages but in no  
9 case less than one thousand dollars (\$1,000) and any attorney’s fees that may be  
10 determined by the court in addition thereto, suffered by any person denied the rights  
11 provided in Section 54, 54.1, and 54.2.

12 41. California Civil Code § 54(d) specifies, “a violation of the right of an  
13 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also  
14 constitute a violation of this section, and nothing in this section shall be construed to limit  
15 the access of any person in violation of that act.

16 42. The actions and omissions of Defendants alleged herein constitute a denial  
17 of full and equal accommodation, advantages, and facilities by physically disabled  
18 persons within the meaning of California Civil Code § 54. Defendants have  
19 discriminated against Plaintiff in violation of California Civil Code § 54.

20 43. The violations of the California Disabled Persons Act caused Plaintiff to  
21 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for  
22 statutory damages as specified in California Civil Code §55.56(a)-(c).

### 23 **FOURTH CAUSE OF ACTION**

#### 24 **CALIFORNIA HEALTH & SAFETY CODE § 19955, et seq.**

25 44. Plaintiff incorporates by reference each of the allegations in all prior  
26 paragraphs in this complaint.

27 45. Plaintiff and other similar physically disabled persons who require the use of  
28 a wheelchair are unable to use public facilities on a “full and equal” basis unless each

1 such facility is in compliance with the provisions of California Health & Safety Code §  
2 19955 et seq. Plaintiff is a member of the public whose rights are protected by the  
3 provisions of California Health & Safety Code § 19955 et seq.

4 46. The purpose of California Health & Safety Code § 1995 et seq. is to ensure  
5 that public accommodations or facilities constructed in this state with private funds  
6 adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of  
7 Title 1 of the Government Code. The code relating to such public accommodations also  
8 require that “when sanitary facilities are made available for the public, clients, or  
9 employees in these stations, centers, or buildings, they shall be made available for  
10 persons with disabilities.

11 47. Title II of the ADA holds as a “general rule” that no individual shall be  
12 discriminated against on the basis of disability in the full and equal enjoyment of goods  
13 (or use), services, facilities, privileges, and accommodations offered by any person who  
14 owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).  
15 Further, each and every violation of the ADA also constitutes a separate and distinct  
16 violation of California Civil Code §§ 54(c) and 54.1(d), thus independently justifying an  
17 award of damages and injunctive relief pursuant to California law, including but not  
18 limited to Civil Code § 54.3 and Business and Professions Code § 17200, et seq.

19 **FIFTH CAUSE OF ACTION**

20 **NEGLIGENCE**

21 48. Plaintiff incorporates by reference each of the allegations in all prior  
22 paragraphs in this complaint.

23 49. Defendants have a general duty and a duty under the ADA, Unruh Civil  
24 Rights Act and California Disabled Persons Act to provide safe and accessible facilities  
25 to the Plaintiff.

26 50. Defendants breached their duty of care by violating the provisions of ADA,  
27 Unruh Civil Rights Act and California Disabled Persons Act.

1           51. As a direct and proximate result of Defendants' negligent conduct, Plaintiff  
2 has suffered damages.

3                                   **PRAYER FOR RELIEF**

4           WHEREFORE, Plaintiff respectfully prays for relief and judgment against  
5 Defendants as follows:

- 6           1. For preliminary and permanent injunction directing Defendants to comply  
7 with the Americans with Disability Act and the Unruh Civil Rights Act;
- 8           2. Award of all appropriate damages, including but not limited to statutory  
9 damages, general damages and treble damages in amounts, according to proof;
- 10          3. Award of all reasonable restitution for Defendants' unfair competition  
11 practices;
- 12          4. Reasonable attorney's fees, litigation expenses, and costs of suit in this  
13 action;
- 14          5. Prejudgment interest pursuant to California Civil Code § 3291; and
- 15          6. Such other and further relief as the Court deems just and proper.

16                                   **DEMAND FOR TRIAL BY JURY**

17          Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby  
18 demands a trial by jury on all issues so triable.

19  
20 Dated: November 30, 2023

SO. CAL. EQUAL ACCESS GROUP

21  
22  
23 By: /s/ Jason J. Kim  
24 Jason J. Kim, Esq.  
25 Attorneys for Plaintiff  
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